

WEST BEND MUTUAL INSURANCE
COMPANY,

Plaintiff,

VS.

F.A., M.A., A.A.,
EMILY HAMMERLY, JOSEPH HAMMERLY
and LITTLE LEARNER II, LLC,

Defendants.

Case No. 4:20-CV-00107-HFS

**DEFENDANTS F.A., M.A., and A.A.'s ANSWER TO PLAINTIFF'S
COMPLAINT FOR DECLARATORY JUDGMENT**

COME NOW Defendants, F.A., M.A., and A.A. (hereinafter collectively referred to as “Defendants”), by and through their attorneys of record, and in response to Plaintiff’s Complaint for Declaratory Judgment, answers as follows:

1. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 1 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 1 of Plaintiff's Complaint.
2. Defendants admit the allegation in paragraph 2 of Plaintiff's Complaint.
3. Defendants deny the allegations contained in paragraph 3 of Plaintiff's Complaint, in that such allegation calls for a legal conclusion.
4. Defendants admit the allegations in paragraph 4 of Plaintiff's Complaint.
5. Defendants admit the allegations in paragraph 5 of Plaintiff's Complaint.
6. Defendants admit the allegations in paragraph 6 of Plaintiff's Complaint.
7. Defendants admit the allegations in paragraph 7 of Plaintiff's Complaint.

8. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 8 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 8 of Plaintiff's Complaint.

9. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 9 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 9 of Plaintiff's Complaint.

10. Defendants' admit the allegations in paragraph 10 of Plaintiff's Complaint.

11. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 11 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 11 of Plaintiff's Complaint.

12. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 12 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 12 of Plaintiff's Complaint.

13. Defendants' admit the allegations in paragraph 13 of Plaintiff's Complaint.

14. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 14 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 14 of Plaintiff's Complaint.

15. Defendants' admit the allegations in paragraph 15 of Plaintiff's Complaint.

16. Defendants' admit the allegations in paragraph 16 of Plaintiff's Complaint.

17. Defendants' admit the allegations in paragraph 17 of Plaintiff's Complaint.

18. Defendants' admit the allegations in paragraph 18 of Plaintiff's Complaint.

19. Defendants' admit the allegations in paragraph 19 of Plaintiff's Complaint.

20. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 20 of Plaintiff's Complaint as the sentence is incomplete and cuts off. Therefore, Defendants' deny the allegations in paragraph 20 of Plaintiff's Complaint.

21. Defendants' deny the allegations in paragraph 21 of Plaintiff's Complaint.

22. Defendants' admit the allegations in paragraph 22 of Plaintiff's Complaint.

23. Defendants' deny the allegations in paragraph 23 of Plaintiff's Complaint.

24. Defendants' deny the allegations in paragraph 24 of Plaintiff's Complaint.

25. Defendants' deny the allegations in paragraph 25 of Plaintiff's Complaint.

26. Defendants' deny the allegations in paragraph 26 of Plaintiff's Complaint.

27. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 27 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 27 of Plaintiff's Complaint.

28. Defendants' deny the allegations in paragraph 28 of Plaintiff's Complaint.

29. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 29 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 29 of Plaintiff's Complaint.

30. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 30 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 30 of Plaintiff's Complaint.

31. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 31 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 31 of Plaintiff's Complaint.

32. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 32 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 32 of Plaintiff's Complaint.

33. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 33 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 33 of Plaintiff's Complaint.

34. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 34 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 34 of Plaintiff's Complaint.

35. Defendants' deny the allegations in paragraph 35 of Plaintiff's Complaint.

36. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 36 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 36 of Plaintiff's Complaint.

37. Defendants' deny the allegations in paragraph 37 of Plaintiff's Complaint.

38. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 38 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 38 of Plaintiff's Complaint.

39. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 39 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 39 of Plaintiff's Complaint.

40. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 40 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 40 of Plaintiff's Complaint.

41. Defendants can neither admit nor deny as Plaintiff's do not list a paragraph 41 to this Complaint.

42. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 42 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 42 of Plaintiff's Complaint.

43. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 43 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 43 of Plaintiff's Complaint.

44. Defendants' admit the allegations in paragraph 44 of Plaintiff's Complaint.

45. Defendants' admit the allegations in paragraph 45 of Plaintiff's Complaint.

46. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 46 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 46 of Plaintiff's Complaint.

47. Defendants' deny the allegations in paragraph 47 of Plaintiff's Complaint.

48. Defendants' deny the allegations in paragraph 48 of Plaintiff's Complaint.

49. Defendants' deny the allegations in paragraph 49 of Plaintiff's Complaint.

50. Defendants' deny the allegations in paragraph 50 of Plaintiff's Complaint.

51. Defendants' deny the allegations in paragraph 51 of Plaintiff's Complaint.

52. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 52 of Plaintiff's Complaint. Therefore, Defendants' deny the allegations in paragraph 52 of Plaintiff's Complaint.

53. Defendants' deny the allegations in paragraph 53 of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

54. Defendants hereby incorporate by reference all allegations, averments, and denials set forth in paragraphs 1 through 53 of their Answer to Plaintiff's Complaint for Declaratory Judgment.

55. For further answer, Plaintiff's Complaint fails to state a claim.

56. For further answer, Plaintiff's failed to mitigate its damages, if any.

57. For further answer, Defendants hereby expressly reserve the right to assert additional defenses, whether affirmative or otherwise.

58. For further answer, Defendants state that Plaintiff's Complaint is premature and not in a proper position for this Court to adjudicate issues regarding coverage.

59. Defendants affirmatively assert that the insurance policies issued by West Bend Mutual Insurance Company, CGL policy number A17095104, and Umbrella Policy number A17095104, provide coverage for the claims asserted in the underlying lawsuit. (*See*, Petition for Damages, attached hereto as Exhibit A).

60. Defendants affirmatively seek a declaration from this Court obligating Plaintiff West Bend Mutual Insurance Company to provide coverage for the damages alleged in the Underlying Petition.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendants pray for this Court enter judgment in their favor and declare that the Insurance Policies provide liability coverage, to Plaintiffs for injuries sustained as a result of the conduct alleged in the underlying lawsuit.

DEMAND FOR JURY TRIAL

COME NOW Defendants, by and through counsel of record, and demands a trial by jury on all issues.

Respectfully Submitted,

MONSEES & MAYER, P.C.
A Professional Corporation

BY/s/ David M. Mayer

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**ATTORNEYS FOR DEFENDANTS
F.A, M.A., AND A.A.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was served by:

☐ U.S. Mail, postage prepaid
☐ Facsimile transmission
☐ Personal Delivery
☒ Missouri E-Filing System

on this 4th day of March 2020, to:

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